

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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USDC Docket Number : 05-cv-10571

Joseph P. Schmitt, pro se

v.

Thomas Carter, et al

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**CLERK'S CERTIFICATE**

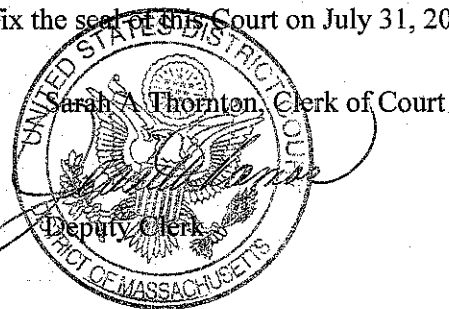
I, Sarah A. Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents numbered:

1-55

and contained in I Volume(s) are the original or electronically filed pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 7/24/2007.

In testimony whereof, I hereunto set my hand and affix the seal of this Court on July 31, 2007.

By:



Receipt of the documents in the above entitled case is hereby acknowledged this date: 7/30/07.

R. Barchard  
Deputy Clerk, US Court of Appeals

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Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: \_\_\_\_\_

APPEAL

**United States District Court  
District of Massachusetts (Boston)  
CIVIL DOCKET FOR CASE #: 1:05-cv-10571-RWZ**

Schmitt v. Carter et al  
Assigned to: Judge Rya W. Zobel  
Cause: 42:1983 Prisoner Civil Rights

Date Filed: 03/25/2005  
Date Terminated: 07/09/2007  
Jury Demand: None  
Nature of Suit: 550 Prisoner:  
Civil Rights  
Jurisdiction: Federal Question

**Plaintiff**

**Joseph Peter Schmitt**

represented by **Joseph Peter Schmitt**  
Massachusetts Treatment  
Center  
30 Administration Road  
Bridgewater, MA 02324  
PRO SE

V.

**Defendant**

**Thomas Carter**

represented by **Jody Adams Brenner**  
Department of Correction  
70 Franklin Street  
Suite 600  
Boston, MA 02110  
617-727-3300  
Fax: 617-727-7403  
Email:  
jabrenner@doc.state.ma.us  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Defendant**

**William Grossi**

*TERMINATED: 02/05/2007*

**Defendant**

**Ernest Therien**

represented by **Jody Adams Brenner**  
 (See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE*  
*NOTICED*

**Defendant**

**Peter Allen**

*TERMINATED: 02/05/2007*

**Defendant**

**Massachusetts Department  
 of Corrections**

represented by **Jody Adams Brenner**  
 (See above for address)  
*ATTORNEY TO BE*  
*NOTICED*

**Defendant**

**Massachusetts Department  
 of Public Safety**

*TERMINATED: 02/05/2007*

<b>Date Filed</b>	<b>#</b>	<b>Docket Text</b>
02/18/2005	<b>3</b>	MOTION for Leave to Proceed in forma pauperis by Joseph Peter Schmitt.(Jenness, Susan) (Entered: 03/25/2005)
02/18/2005	<b>1</b>	AFFIDAVIT of Joseph Peter Schmitt re: in forma pauperis by Joseph Peter Schmitt. (Jenness, Susan) Additional attachment(s) added on 3/28/2005 (Jenness, Susan). Modified on 3/28/2005 (Jenness, Susan). (Entered: 03/25/2005)

02/18/2005	<u>2</u>	COMPLAINT against Thomas Carter, William Grossi, Ernest Therien, Peter Allen, Massachusetts Department of Corrections, Massachusetts Department of Public Safety Filing fee: \$ 0.00, receipt number 0.00, filed by Joseph Peter Schmitt.(Jenness, Susan) Additional attachment(s) added on 3/28/2005 (Jenness, Susan). (Entered: 03/25/2005)
02/18/2005		If the trial Judge issues an Order of Reference of any matter in this case to a Magistrate Judge, the matter will be transmitted to Magistrate Judge Bowler. (Jenness, Susan) (Entered: 03/25/2005)
05/26/2005	<u>4</u>	Judge Reginald C. Lindsay : ORDER entered. ORDER REASSIGNING CASE. Case reassigned to Judge Rya W. Zobel for all further proceedings. Judge Reginald C. Lindsay no longer assigned to case Counsel are directed to the Court's Standing Orders re: Electronic Case Filing.(McGlamery, Jeanette) (Entered: 05/26/2005)
07/22/2005	<u>5</u>	Judge Rya W. Zobel : ORDER entered denying <u>3</u> Motion for Leave to Proceed in forma pauperis. The plaintiff's application to proceed without prepayment of fees is DENIED. If the plaintiff does not pay the \$250.00 filing fee within thirty-five (35) days of the date of this order, the case will be dismissed without prejudice for failure to pay the filing fee. (McGlamery, Jeanette) (Entered: 07/22/2005)
09/20/2005	<u>6</u>	Letter/request (non-motion) from Joseph P. Schmitt regarding motion to reconsider. (Johnson, Jay) (Entered: 09/21/2005)
09/20/2005	<u>7</u>	MOTION for Reconsideration re <u>5</u> Order on Motion for Leave to Proceed in forma pauperis, by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 09/21/2005)
12/30/2005	<u>8</u>	Notice of Filing of EXHIBITS by Joseph Peter Schmitt. (Attachments: # <u>1</u> Exhibit)(Johnson, Jay)



		(Entered: 01/04/2006)
12/30/2005	9	MOTION to Amend Complaint by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 01/04/2006)
02/28/2006		Judge Rya W. Zobel : endorsedORDER entered granting 9 Motion to Amend complaint (Urso, Lisa) (Entered: 02/28/2006)
04/10/2006	10	Letter/request (non-motion) from Joseph P Schmitt. (Sonnenberg, Elizabeth) (Entered: 04/12/2006)
04/13/2006		DOCKET SHEET sent to Joseph P Schmitt at 30 Administration road, Bridgewater, MA 02324. (Sonnenberg, Elizabeth) (Entered: 04/13/2006)
04/14/2006	11	Judge Rya W. Zobel : ORDER entered granting 7 Motion for Reconsideration. It is FURTHER ORDERED that plaintiff's application to proceed in forma pauperis under 28 U.S.C. Section 1915 is hereby GRANTED, and it is FURTHER ORDERED that the Clerk shall issue summonses and the United States Marshal shall serve a copy of the summons, complaint, and this order upon defendant(s) as directed by plaintiff with all costs of service to be advanced by the United States. (PSSA, 2) Additional attachment(s) added on 4/19/2006 (PSSA, 2). (Entered: 04/19/2006)
04/19/2006		Summons Issued as to Thomas Carter, William Grossi, Ernest Therien, Peter Allen, Massachusetts Department of Corrections, Massachusetts Department of Public Safety. (PSSA, 2) (Entered: 04/19/2006)
05/01/2006	12	MOTION to Appoint Counsel by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 05/02/2006)
05/05/2006	13	EMERGENCY MOTION for Court Order by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 05/05/2006)
05/10/2006	14	Addendum to plaintiff's emergency motion for court order dated 4/28/06 (Johnson, Jay) (Entered: 05/10/2006)

		05/12/2006)
05/22/2006	●	Judge Rya W. Zobel : endorsed ORDER entered denying <u>12</u> Motion to Appoint Counsel, denying <u>13</u> Motion for Order (Urso, Lisa) (Entered: 05/23/2006)
05/22/2006	● <u>15</u>	US Marshal Process Receipt and Return for Civil rights action. Mass.Dept of Correction served Delivered on 5/12/06 (Johnson, Jay) (Entered: 05/23/2006)
05/30/2006	● <u>16</u>	MOTION for Court Order by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 05/31/2006)
06/06/2006	● <u>17</u>	Letter/request (non-motion) from Plaintiff requesting copies. (Johnson, Jay) (Entered: 06/07/2006)
06/06/2006	● <u>18</u>	MOTION for Reconsideration and written memorandum of decision by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 06/07/2006)
06/29/2006	● <u>19</u>	MOTION for Court Order by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 07/05/2006)
07/18/2006	● <u>20</u>	Request for notice of default. (Attachments: # <u>1</u> Affidavit)(Johnson, Jay) (Entered: 07/20/2006)
07/20/2006	● <u>21</u>	Judge Rya W. Zobel : ORDER entered denying <u>16</u> Motion for Order, denying <u>18</u> Motion for Reconsideration, denying <u>19</u> Motion for Order (Urso, Lisa) (Entered: 07/20/2006)
07/20/2006	● <u>22</u>	NOTICE of Appearance by Jody T. Adams on behalf of Massachusetts Department of Corrections (Adams, Jody) (Entered: 07/20/2006)
07/20/2006	● <u>23</u>	MOTION for Extension of Time to September 8, 2006 to File Response/Reply as to <u>15</u> USM Process Receipt and Return, <u>2</u> Complaint, by Massachusetts Department of Corrections.(Adams, Jody) (Entered: 07/20/2006)
07/20/2006	● <u>24</u>	Response by Massachusetts Department of



		Corrections to <u>20</u> Request for notice of default. (Adams, Jody) (Entered: 07/20/2006)
07/26/2006	<u>25</u>	MOTION to Amend <u>2</u> Complaint, by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 07/28/2006)
08/08/2006		Judge Rya W. Zobel : endorsedORDER entered granting <u>23</u> Motion for Extension of Time to File Response/Reply Responses due by 9/8/2006 (Urso, Lisa) (Entered: 08/08/2006)
08/11/2006	<u>26</u>	Judge Rya W. Zobel : ORDER entered denying <u>25</u> Motion to Amend (Urso, Lisa) (Entered: 08/11/2006)
08/25/2006	<u>27</u>	US Marshal Process Receipt and Return for Complaint. MA Dept. of Public Safety unexecuted on 8/23/06. (Sonnenberg, Elizabeth) (Entered: 08/29/2006)
08/29/2006	<u>28</u>	MOTION to Vacate <i>Plaintiff's Indigency Status</i> by Massachusetts Department of Corrections. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2)(Adams, Jody) (Entered: 08/29/2006)
08/31/2006	<u>29</u>	MOTION to Dismiss by all defendants.(Adams, Jody) (Entered: 08/31/2006)
09/11/2006	<u>30</u>	Opposition re <u>28</u> MOTION to Vacate <i>Plaintiff's Indigency Status</i> filed by Joseph Peter Schmitt. (Attachments: # <u>1</u> Exhibit)(Johnson, Jay) (Entered: 09/13/2006)
09/21/2006	<u>31</u>	MOTION for Extension of Time to 11/9/06 to respond to #29 motion to dismiss by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 09/22/2006)
10/10/2006	<u>32</u>	Opposition re <u>29</u> MOTION to Dismiss filed by Joseph Peter Schmitt. (Attachments: # <u>1</u> Exhibits 1-3) (Johnson, Jay) (Entered: 10/11/2006)
10/20/2006	<u>33</u>	Emergency MOTION for Court Order by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 10/24/2006)

10/26/2006	<u>34</u>	MOTION for Court Order by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 10/27/2006)
11/01/2006	<u>35</u>	Opposition re <u>34</u> MOTION for Order <i>Regarding Legal Photocopies and/or Motion to Strike</i> filed by all defendants. (Attachments: # <u>1</u> Exhibit 1 and 2) (Adams, Jody) (Entered: 11/01/2006)
12/06/2006	<u>36</u>	MOTION for Order for production of documents.... by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 12/08/2006)
12/06/2006	<u>37</u>	REPLY to Response to Motion re <u>34</u> MOTION for Order Regarding Legal Copies filed by Joseph Peter Schmitt. (Attachments: # <u>1</u> Part 2)(Johnson, Jay) (Entered: 12/08/2006)
12/19/2006	<u>38</u>	(emergency) MOTION for Order by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 12/20/2006)
01/24/2007	<u>39</u>	US Marshal Process Receipt and Return for civil rights action. Ernest Therien served Delivered on 1/19/07 (Johnson, Jay) (Entered: 01/25/2007)
01/24/2007	<u>40</u>	US Marshal Process Receipt and Return for civil rights action. MCI Cedar Junction (Carter) served Delivered on 1/19/07 (Johnson, Jay) (Entered: 01/25/2007)
01/25/2007	<u>41</u>	NOTICE of Appearance by Jody T. Adams on behalf of Thomas Carter, Ernest Therien (Adams, Jody) (Entered: 01/25/2007)
01/25/2007	<u>42</u>	Opposition re <u>36</u> MOTION for Order to for production of documents filed by Massachusetts Department of Corrections. (Adams, Jody) (Entered: 01/25/2007)
02/05/2007	<u>43</u>	Judge Rya W. Zobel : ORDER entered granting <u>31</u> Motion for Extension of Time, denying <u>33</u> Motion for Order, denying <u>34</u> Motion for Order, denying <u>36</u> Motion for Order, denying <u>38</u> Motion for Order, denying <u>28</u> Motion to Vacate, granting in part and



		denying in part <u>29</u> Motion to Dismiss (Urso, Lisa) (Entered: 02/05/2007)
02/05/2007	<u>44</u>	US Marshal Process Receipt and Return for civil action. William Grossi served Delivered on 1/31/07 (Johnson, Jay) (Entered: 02/07/2007)
02/20/2007	<u>45</u>	MOTION for Reconsideration re <u>43</u> Order on Motion for Extension of Time, Order on Motion for Order,,,, Order on Motion to Vacate, Order on Motion to Dismiss,,,,,, by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 02/21/2007)
04/13/2007	<u>46</u>	MOTION to Dismiss ( <i>Renewed</i> ) by Thomas Carter, Ernest Therien, Massachusetts Department of Corrections. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2# <u>3</u> Exhibit 3)(Adams, Jody) (Entered: 04/13/2007)
04/23/2007	<u>47</u>	MOTION to Compel (copying) by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 04/24/2007)
04/24/2007	<u>48</u>	Opposition re <u>47</u> MOTION to Compel <i>and Motion for Sanctions</i> filed by Thomas Carter, Ernest Therien, Massachusetts Department of Corrections. (Adams, Jody) (Entered: 04/24/2007)
05/04/2007	<u>49</u>	Opposition re <u>46</u> MOTION to Dismiss ( <i>Renewed</i> ) filed by Joseph Peter Schmitt. (Johnson, Jay) (Entered: 05/09/2007)
05/04/2007	<u>50</u>	Addendum by Joseph Peter Schmitt re <u>45</u> MOTION for Reconsideration re <u>43</u> Order on Motion for Extension of Time, Order on Motion for Order,,,, Order on Motion to Vacate, Order on Motion to Dismiss,,,,,, (Johnson, Jay) (Entered: 05/09/2007)
06/05/2007	<u>51</u>	MOTION for ruling on Motion for Reconsideration by Joseph Peter Schmitt.(Johnson, Jay) (Entered: 06/06/2007)
06/15/2007	<u>52</u>	MOTION to Stay <i>Discovery Pending the Outcome of Defendants' Renewed Motion to Dismiss</i> by Thomas

		Carter, Ernest Therien, Massachusetts Department of Corrections.(Adams, Jody) (Entered: 06/15/2007)
07/09/2007	53	Judge Rya W. Zobel : ORDER entered finding as moot <u>45</u> Motion for Reconsideration ; granting <u>46</u> Motion to Dismiss; finding as moot <u>47</u> Motion to Compel; finding as moot <u>51</u> Motion ; finding as moot <u>52</u> Motion to Stay. Judgment may be entered dismissing the complaint. (Urso, Lisa) (Entered: 07/09/2007)
07/09/2007	54	Judge Rya W. Zobel : ORDER entered. JUDGMENT entered dismissing the complaint. (Urso, Lisa) (Entered: 07/09/2007)
07/24/2007	55	NOTICE OF APPEAL as to <u>53</u> Order on Motion for Reconsideration, Order on Motion to Dismiss, Order on Motion to Compel, Order on Motion for Miscellaneous Relief, Order on Motion to Stay,,,,, by Joseph Peter Schmitt NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at <a href="http://www.ca1.uscourts.gov/clerks/transcript.htm">http://www.ca1.uscourts.gov/clerks/transcript.htm</a> MUST be completed and submitted to the Court of Appeals.Appeal Record due by 8/13/2007. (Johnson, Jay) (Entered: 07/24/2007)